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NOTIFICATION OF NON-COMPLIANCE WITH THE REQUIREMENTS OF 37 CFR 41.37(c) This is in reference to the supplemental appeal brief as filed on 4/17/2009.

(1) The brief does not contain a statement of the Status of the Amendments (section IV) filed subsequent to the final rejection as required by 37 CFR 41.37(c)(1)(iv).

In the response, filed on 4/17/2009, applicant has included a status of the claims and not a status of the amendments after final as required. All that is necessary to be compliant is to reference the only amendment filed after final as filed on 10/02/2008 and its status. In this case the amendment after final as filed on 10/02/2008 has been entered.

(2) The brief does not contain arguments of the appellant with respect to each ground of rejection presented for review, and the basis therefor, with citations of the statutes, regulations, authorities, and parts of the record relied on as required by 37 CFR 41.37(c)(1)(vii).

a) The arguments sections B, C, D, and E (heading section) should include **all claims being argued** as well as **the appropriate statute citation**. This listing **should also agree with any subsequent listing of the claims to be reviewed** in the arguments section. The claims recited **should also agree with the claims listed in section VI directed to the Grounds of Rejection to be Reviewed**.

b) Section A directed to Case Law should not be listed separately but should be included in the appropriate argument sections or sections (B, C, D, and/or E).

c) In section E, subsection 4, Malakatas should be argued separately because it is being relied upon as a primary reference in the rejection under 35 USC 103 of Malakatas in view of Ebert et al..

d) The rejection of claims 2-4 under 35 USC 103 of Steadman (152) in view of Barnes (288) has not been addressed in any of sections A-E as listed in the Argument section VII.

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(3) Appellant is required to comply with provisions of 37 CFR 41.37(c). To avoid dismissal of the appeal, Appellant must comply with the provisions of 37 CFR 41.37(c) within ONE MONTH or THIRTY DAYS, whichever is longer, from the mailing of this communication. Extensions of time may be granted under 37 CFR 1.136.

Please feel free to promptly contact the examiner if any assistance is needed in complying with any of the above requirements.

(4) Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen M. Johnson whose telephone number is 571-272-6877 and whose e-mail address is ([Stephen.Johnson@uspto.gov](mailto:Stephen.Johnson@uspto.gov)). The examiner can normally be reached on Tuesday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Carone can be reached on 571-272-6873. The Central FAX phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 800-786-9199.

/Stephen M. Johnson/  
Primary Examiner, Art Unit 3641

SMJ  
July 15, 2009